

Board Action Item
Proposed changes to R311, Petroleum Storage Tank Rules

The Division of Environmental Response and Remediation (DERR) is proposing changes to R311, the Petroleum Storage Tank (PST) rules and adding rules for Aboveground Petroleum Storage Tanks (APST)s. These changes are presented as an information item.

Background:

Due to legislation passed in the 2021 session, Senate Bill SB-40, Storage Tanks Amendments, the Division of Environmental Response and Remediation (DERR) began regulating specific types of Aboveground Petroleum Storage Tanks (APSTs). The bill was approved by the House and Senate in the General Legislative Session 2021 and signed by Governor Cox on March 16, 2021.

The bill addresses the regulation of storage tanks, both APSTs and underground storage tanks (USTs). Highlighted provisions of SB-40 include; the definition of terms, addressing fees, closures, notification requirements, financial assurance requirements, provides for rulemaking, addresses the Environmental Assurance Program and participation in the Petroleum Storage Tank Fund, and imposes restrictions on the delivery of petroleum.

The bill has been in effect since May 5, 2021, requiring the DERR to solely manage closures, petroleum spill reporting, investigation and cleanup for new regulated APST releases.

Important dates include:

1. May 5, 2021: Closures, Spill reporting, investigation, and cleanup of APST releases will be managed by the DERR.
2. June 30, 2022: APST owners must complete a “Utah Notification for Aboveground Petroleum Storage Tanks” form to register their tanks and pay applicable fees.
3. June 30, 2023: APST owners must demonstrate financial responsibility and obtain a Certificate of Compliance.
4. July 1, 2023: Restrictions on the delivery of petroleum (red tag) and possible civil penalties for APSTs out of compliance.
5. July 1, 2026: APSTs must meet performance standards as defined in the International Fire Code to be enforced with these proposed rule changes

The rules to be amended are:

R311-200 Underground Storage Tanks: Definitions.

R311-201 Underground Storage Tanks: Certification Programs and UST Operator Training.

R311-203 Underground Storage Tanks: Technical Standards.

R311-204 Underground Storage Tanks: Closure and Remediation.

R311-205 Underground Storage Tanks: Site Assessment Protocol.

R311-206 Underground Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms.

R311-207 Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks.

R311-208 Underground Storage Tank Penalty Guidance

R311-211 Corrective Action Cleanup Standards Policy-UST and CERCLA Sites

R311-212, Administration of the Petroleum Storage Tank Loan Program

A summary of the proposed changes appears in the Board Packet and the text of the changes can be found on the DERR Website. In the rule text document, wording to be added is underlined, and wording to be removed is struck out. The proposed changes were presented to the UST Advisory Task Force on April 12, 2022.

This matter does not require Board action. The Division believes it to be appropriate to inform the Board of all administrative actions required on rules for which the Board has responsibility. Are there any questions?

Summary of the Proposed Changes:

R311-200 Underground Storage Tanks: Definitions.

- Changed title of R311-201 to Petroleum Storage Tanks: Definitions.
- In many places changed UST to PST, to include APST and UST
- R311-200-1(2)(b). Defined “Agricultural operations”
- R311-200-1(2)(c). Defined “APST” as Aboveground Petroleum Storage Tank
- R311-200-1(2)(s). Defined “EAP” as Environmental Assurance Program
- R311-200-1(2)(z)(aa). Defined “Historic contamination”
- R311-200-1(2)(z)(cc). Defined “In service”
- R311-200-1(2)(z)(ff). Defined “New releases”
- R311-200-1(2)(z)(oo). Defined “PST” as petroleum storage tank
- R311-200-1(2)(z)(ss). Defined “Reportable release”
- R311-200-1(2)(z)(ss)(ii). Clarified the definition of “Secondary containment” to include APSTs
- R311-200-1(2)(z)(zz)(bbb). Defined “Suspected release”

R311-201 Underground Storage Tanks: Certification Programs and UST Operator Training

- Changed title of R311-201 to Petroleum Storage Tanks: Certification Programs and UST Operator Training
- R311-201-2(b). Changed UST consultant to PST consultant
- Changed UST to PST multiple times throughout the rule

R311-203 Underground Storage Tanks: Technical Standards

- Changed title of R311-203 to Petroleum Storage Tanks: Technical Standards
- R311-203-2(5). Added notification requirements for an APST in service after May 5, 2021
- R311-203-2(6). Added requirements for an APST that is not in service before May 5, 2021 is subject to notification, delivery prohibition, and release reporting requirements
- R311-203-2(7). Added APSTs not in service before May 5, 2021, must be empty
- R311-203-4. Changed to Petroleum Storage Tank Registration Fee
- R311-203-4(7). Added notification fee requirement for regulated APSTs
- R311-203-5. Added leak detection requirements for APSTs using the EAP for financial responsibility
- R311-203-5(10)(a). Added line tightness testing requirements for APSTs on EAP
- R311-203-5(10)(b). Added spill prevention requirements for APSTs on EAP
- R311-203-5(10)(c). Phase-in requirements for leak detection for APSTs on EAP and resting on the ground
- R311-203-5(10)(d). Phase-in requirements for cathodic protection of APSTs on EAP
- R311-203-5(10)(e). Phase-in requirements for overfill prevention for APSTs on EAP
- R311-203-5(10)(f). Phase-in requirements for automatic line leak detection for APSTs on EAP

R311-204 Underground Storage Tanks: Closure and Remediation.

- Changed title of R311-204 to Petroleum Storage Tanks: Closure and Remediation
- R311-204-2(1)(a). Changed UST to PST to indicate that APSTs are subject to permanent closure notification requirements
- R311-204-3(2)(e). Defined requirements for reuse of an APST
- R311-204-4(2). Added requirements for submitting a Closure Notice for APSTs

R311-205 Underground Storage Tanks: Site Assessment Protocol

- Change title of R311-205 to Petroleum Storage Tanks: Site Assessment Protocol and Release Reporting
- R311-205-2(1). Added site assessment or site check requirements for USTs and APSTs
- R311-205-2(1). Added notification to local emergency responders of a spill or overfill exceeding 25 gallons
- R311-205-3. Added sampling requirements for remote fills
- R311-205-3. Changed sampling protocol for product dispensers

R311-206 Underground Storage Tanks: Certificate of compliance and Financial Assurance Mechanism

- Changed title R311-206 to Petroleum Storage Tanks: Certificate of compliance and Financial Assurance Mechanism.
- R311-206-2(1). Owners and operator must declare Financial Assurance Mechanism.
- R311-206-3(1)(g). Added requirement for as-built drawings or site plats for new and existing PST sites.
- R311-206-3(2)(a). Initial requirements for an APST to receive a certificate of compliance to include: tank tightness tests, line tightness tests, site plats, spill, previous pollution incident report, and financial responsibility.
- R311-206-3(2)(b). Added phase in requirements for APSTs starting July 1, 2026 which includes: cathodic protection, overfill, line leak detector and secondary containment.
- R311-206-6. Changed title to Voluntary Admission of Eligible exempt Underground Petroleum Storage Tanks and eligible exempt aboveground storage tanks containing petroleum to the Environmental Assurance Program.
- R311-206-6(2). Defined eligible exempt ASTs participation in the EAP
- R311-206-8(3). Added requirements for delivery prohibition for APSTs
- R311-206-11(8). Environmental Assurance Program Risk Rebate does not apply to APSTs until July 1, 2026

R311-207 Accessing the Petroleum Storage Tank fund for Leaking Petroleum Storage Tanks

- R311-207-2(5). Clarified the reimbursement percentages for new and historic releases

R311-208, Underground Storage Tank Penalty Guidance

- Changed title R311-208 to Petroleum Storage Tank Penalty Guidance
- R311-208-2. Change title to Petroleum Storage Tank Penalty Criteria

R311-211, Corrective Action Cleanup Standards Policy-UST and CERCLA Sites

- Change title R311-211 to Corrective Action Cleanup Standards Policy-PST and CERCLA Sites

R311-212, Administration of the Petroleum Storage Tank Loan Program

- Change title R311-212 to Administration of the Petroleum Storage Tank Fund Loan Program
- Made several minor clarifications of terms in the rule.

The tentative adoption schedule for the proposed rule changes is:

Request for comments from PST Stakeholders	March and April 2022
Request for Board approval for publication and public comment	May 12, 2022
Publication in the Utah State Bulletin	June 1, 2022
Public comment period	June 1 – July 1, 2022
Public hearing (date tentative)	June 15, 2022
Board approval for final adoption	July 14, 2022
Final effective date of new rules	September 29, 2021